

RECEIVED AZ CORP COMMISSION

1

2

3

4

5

6

Mar 26 4 11 PM '98

JAMES M. IRVIN

CHAIRMAN RENZ D. JENNINGS

COMMISSIONER

CARL J. KUNASEK
COMMISSIONER

BEFORE THE INDUSTRIAL COMMISSION OF ARIZONAL COMMISSION OF ARIZONAL

MAY 26 1998

DOCKETED BY

7

8

9

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH SECTION 271
OF THE TELECOMMUNICATIONS ACT
OF 1996

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

10

DOCKET NO. T-0000B-97-0238

U S WEST'S REPLY IN SUPPORT OF ITS MOTION FOR PROTECTIVE ORDER REGARDING AT&T'S FIRST SET OF DATA REQUESTS

I. <u>Introduction</u>

U S WEST Communications, Inc. ("U S WEST") submitted a pursuant to this Commission's Section 271 Order, petition, stating its compliance with five of Section 271's 14-point checklist. Prior to this filing, AT&T Communications of the ("AT&T") had consistently taken Mountain States, Inc. position that the Commission should hold one proceeding after U S WEST had asserted its compliance with every aspect of Section AT&T now takes a diametrically opposite position arguing that the Commission should allow discovery and a hearing after The Commission should deny the relief each partial filing. requested by AT&T and grant U S WEST the protective order it course of This action would prevent unnecessary seeks. duplication of effort by the Commission, Staff and all interested parties.

3

5

6

7

10

11

12

13

14

15

16

17

18

19

2.0

21

22

23

24

25

26

II. Argument

This Commission issued an Order on May 27, 1997, which provided that "[T]o expedite the review of this information and accelerate the introduction of full telecommunication competition in Arizona, U S WEST is strongly encouraged to file information related to a checklist item as soon as possible after it believes that it has satisfied the requirements of the specific item." Decision No. 60218 at 2. All parties understood that these partial filings would be for informational purposes only to educate both the Commission and the intervenors of how and why U S WEST believes that a particular checklist item has been AT&T itself adopted this position when it urged the satisfied. Commission to conduct only one hearing after U S certified that it satisfied every aspect of Section including all of the 14 points on the checklist.

On April 13, 1998, U S WEST submitted its first partial filing in accordance with the Commission's Order and certified that had it satisfied five of the 14 points on the checklist: (7) 911 and E 911 services, Directory Assistance, and Operator Services; (8) Directory Listings; (9) Numbering; (10) Unbundled Signaling and Databases; and (12) Local Dialing Parity. immediately changed submitted then course, proposed modification to the Commission's Procedural Order, and propounded an initial set of data requests. AT&T's new position: the Commission should allow discovery and an evidentiary hearing on each checklist item after it is submitted.

In response to U S WEST's Motion for Protective Order, AT&T does not dispute that the Commission has not issued (and indeed may never issue) their requested procedural order requesting discovery and a hearing after each partial filing. AT&T's data requests are, therefore, by AT&T's own admission, premature because the Commission has not yet decided whether it will condone AT&T's piecemeal approach.

Although AT&T argues that it should be entitled to discover the information sought, it fails to articulate any reason why it must be permitted to discover the information now, rather than have the Commission address any lingering concerns at the appropriate time. Because the Commission has not authorized discovery in this docket, and AT&T has presented no compelling reason for allowing discovery at this time, there is no reason for the Commission to require U S WEST to respond to AT&T's premature data requests.

Finally, AT&T's approach will not only complicate the process, but it will create additional work. If allowed to proceed piecemeal, there will clearly be substantial discovery and debate on each checklist item irrespective of whether or not the item is truly in dispute. However, if unified discovery occurs after U S WEST submits its final and complete filing, discovery will be more refined and the issues truly in dispute will be debated before the Commission. Thus, the Commission should grant the Protective Order sought by U S WEST and maintain

the current approach of allowing unified discovery and one hearing after U S WEST submits its final application certifying compliance with all of Section 271. 3 For these reasons, and those set forth more fully in its 4 Motion for Protective Order, U S WEST respectfully requests that 5 the Commission grant its Motion. 6 DATED this 26th day of May, 1998. 7 8 U S WEST COMMUNICATIONS, INC. Thomas Dethlefs 9 Charles W. Steese 10 and 11 FENNEMORE CRAIG 12 13 By Timothy Berg 14 Mary Beth Phillips Attorneys for U S WEST 15 Communications, Inc. 16 ORIGINAL and ten copies of the foregoing filed this 26th day 17 of May, 1998, with: 18 Docket Control ARIZONA CORPORATION COMMISSION 19 1200 West Washington Street Phoenix, Arizona 85007 20 COPY of the foregoing hand 21 delivered this 26th day of May, 1998, 22 Christopher Kempley 23 Legal Division ARIZONA CORPORATION COMMISSION 24 1200 West Washington Street Phoenix, Arizona 85007 25

26

1	Ray Williamson, Acting Director Utilities Division	
2	ARIZONA CORPORATION COMMISSION 1200 West Washington Street	
3	Phoenix, Arizona 85007	
4	COPY of the foregoing mailed this 26th day of May, 1998, to:	3
5		
6	Michael M. Grant GALLAGHER AND KENNEDY	Penny Bewick Electric Lightwave, Inc.
7	2600 North Central Avenue Phoenix, Arizona 85004-3020	8100 N.E. Parkway Drive, #200 Vancouver, Washington 98662
8	Attorneys for U S West New Vector Group and ELI	
9	Scott Wakefield, Chief Counsel Residential Utility Consumer Office	Thomas L. Mumaw SNELL AND WILMER, L.L.P.
10	2828 North Central Avenue, #1200 Phoenix, Arizona 85004	One Arizona Center Phoenix, Arizona 85004-0001
11		Attorneys for Brooks Fiber
12	Kath Thomas Brooks Fiber Communications	Robert Munoz WorldCom, Inc.
13	1600 South Amphlett Boulevard, #330 San Mateo, California 94402	185 Berry Street, Building 1, #5100 San Francisco, California 94107
14	Douglas G. Bonner Alexandre B. Bouton	Donald A. Low Sprint Communications Company L.P.
15	SWIDLER & BERLIN, CHARTERED 3000 K Street, N.W., Suite 300	8140 Ward Parkway 5E Kansas City, Missouri 64114
16	Washington, D.C. 20007 Attorneys for GST	
17	Lex J. Smith	Charles Kallenbach
	Michael Patten BROWN & BAIN, P.A.	American Communications Services, Inc. 131 National Business Parkway
19	2901 North Central Avenue P.O. Box 400	Annapolis Junction, Maryland 20701
20	Phoenix, Arizona 85001-0400 Attorneys for ACSI, Cox and TCG	
21	Carrington Phillip Cox Communications, Inc.	Richard Smith Cox California Telecom, Inc.
22	1400 Lake Hearn Drive, N.E. Atlanta, Georgia 30319	Two Jack London Square Oakland, California 94697
23	Joe Faber	Deborah S. Waldbaum
24	Teleport Communications Group, Inc. 1350 Treat Boulevard, #500	Teleport Communications Group, Inc. 201 North Civic Drive, Suite 2100
0 -	Walnut Grack Galifornia 04506	Walnut Crook California 04506

25

26

Walnut Creek, California 94506 Walnut Creek, California 94596

1 Susan McAdams Thomas Campbell 2 Electric Lightwave, Inc. LEWIS AND ROCA 8100 N.E. Parkway Drive, Suite 200 40 North Central Avenue P.O. Box 4959 Phoenix, Arizona 85004 Vancouver, Washighton 98662 Attorneys for MCI Richard M. Rindler Karen L. Clausen 5 Thomas F. Dixon Antony Richard Petrilla MCI Telecommunications Corporation SWIDLER & BERLIN, CHARTERED 707 - 17th Street, #3900 3000 K Street, N.W., Suite 300 6 Washington, D.C. 20007-5116 Denver, Colorado 80202 Attorneys for McLeod USA Bill Haas Joyce Hundley 8 United States Department of Justice Richard Lipman McLeod USA Antitrust Division 6400 C Street SW 1401 H Street, NW, Suite 8000 Cedar Rapids, Iowa 54206-3177 Washington, D.C. 20530 10 Mary Tribby Joan Burke Law and Government Affairs OSBORN MALEDON, P.A. 11 2929 North Central Avenue, 21st Floor AT&T 12 1875 Lawrence Street, Suite 1575 P.O. Box 36379 Denver, Colorado 80202 Phoenix, Arizona 85067-6379 13 14 15 16 17 18 19 20 21

26

22

23

24

25